

Bipartisan Policy Center
Congressman Lee Hamilton and Governor Tom Kean
Testimony before the Senate Commerce Committee
January 20, 2010

I. INTRODUCTION

We are very happy to appear before you today. As Chairman of the Intelligence Committee Senator Rockefeller made numerous contributions to our national security and we are glad to be back with you again.

Today, we are appearing in our capacity as co-chairmen of the Bipartisan Policy Center's National Security Preparedness Group (NSPG), a successor to the 9/11 Commission. Drawing on a strong roster of national security professionals, the NSPG works as an independent, bipartisan group to monitor the implementation of the 9/11 Commission's recommendations and address other emerging national security issues.

NSPG includes the following membership:

- Mr. Peter Bergen, CNN National Security Analyst and Author, Schwartz Senior Fellow at the New America Foundation
- Dr. Bruce Hoffman, Georgetown University terrorism specialist
- The Honorable Dave McCurdy, Former Congressman from Oklahoma and Chairman of the U.S. House Intelligence Committee, President of the Alliance of Automobile Manufacturers
- The Honorable Edwin Meese III, Former U.S. Attorney General, Ronald Reagan Distinguished Fellow in Public Policy and Chairman of the Center for Legal and Judicial Studies at The Heritage Foundation
- The Honorable Tom Ridge, Former Governor of Pennsylvania and U.S. Secretary of Homeland Security, Senior Advisor at Deloitte Global LLP, Ridge Global
- The Honorable Frances Townsend, Former Homeland Security Advisor and former Deputy National Security Advisor for Combating Terrorism
- Dr. Stephen Flynn, President, Center for National Policy
- Dr. John Gannon, BAE Systems, former CIA Deputy Director for Intelligence, Chairman of the National Intelligence Council, and U.S. House Homeland Security Staff Director
- The Honorable Richard L. Thornburgh, former U.S. Attorney General, Of Counsel at K&L Gates

- The Honorable Jim Turner, Former Congressman from Texas and Ranking Member of the U.S. House Homeland Security Committee, Arnold and Porter, LLP
- Mr. Lawrence Wright, New Yorker Columnist and Pulitzer Prize winning author of *The Looming Tower: Al Qaeda and the Road to 9/11*
- The Honorable E. Spencer Abraham, Former U.S. Secretary of Energy and U.S. Senator from Michigan, The Abraham Group

Over the course of 2009, our group met with Obama Administration and former senior officials from the Bush Administration, including:

- Director of National Intelligence, Admiral Dennis Blair (July 2009)
- CIA Director Leon Panetta (July 2009)
- Secretary of Homeland Security Janet Napolitano (July 2009)
- FBI Director Bob Mueller (September 2009)
- Former CIA Director Mike Hayden (September 2009)
- Former DNI Mike McConnell (September 2009)

We will also meet with Deputy National Security Adviser John Brennan next week.

We believe the strength of our group will allow us to be a voice on national security issues and a resource to you and the executive branch. First and foremost, we are here to help play a constructive role in support of your work.

Since the 9/11 attacks eight years ago and the release of our Commission report five years ago, the Federal government has implemented many changes in America's homeland security and intelligence apparatus.

As demonstrated by the recent attempted terrorist attack in the skies over Detroit, the threat remains strong. We must reject complacency and recognize we still face a serious threat from organizations like Al-Qaeda. Al-Qaeda's core is still active, individuals are still being radicalized in Western countries and motivated to commit violence, and homegrown lone actors are still a risk. As our colleague Bruce Hoffman observed, "al Qaeda is on the march, not on the run." This is not a reason for panic but for a concerted, comprehensive effort.

Recently the 5 year anniversary of the Intelligence Reform and Terrorism Prevention Act passed and in recent months our group has been studying the implementation of the 9/11 Commission's recommendations, especially the state of

intelligence reform, and new threats to our national security. Many of the findings in that report hold true today and can help guide our response to the attacks at Fort Hood and on Christmas day.

Intelligence Coordination and Management

At their core, the problems evident on September 11, 2001, were about the failures and obstacles to sharing information among the federal partners charged with protecting the country. And even if that information had been made available, there was no one in the federal government charged with fusing together intelligence derived from multiple foreign and domestic sources.

To facilitate information-sharing and to create an entity whose job it would be to connect the dots, the bipartisan 9/11 Commission recommended, and the Congress and the President established, a Director of National Intelligence (DNI) and a National Counterterrorism Center (NCTC).

The DNI would be charged with breaking down bureaucratic, cultural, technological, and policy barriers to the sharing of information among federal agencies and the NCTC would be the hub, the “primary organization in the U.S. government for analyzing and integrating all intelligence.” The idea was for the DNI to ensure information-sharing so the NCTC could access and assess all available relevant information and then connect disparate pieces of threat information to aid in preventing future attacks.

In the five years since the passage of the Intelligence Reform and Terrorism Prevention Act, the U.S. government has made significant strides to correct the shortfalls and mistakes evident on September 11, 2001. But as we’ve seen from the recent terrorist incidents at Fort Hood and in the skies above Detroit, there is still work to be done.

The DNI has been hobbled by endless disputes over its size, mission, and authority. Nonetheless, the determination of the terrorist to attack the homeland remains unabated as demonstrated by these events and underscores the critical need for creating the DNI and the NCTC. It is imperative that the DNI and the NCTC to be successful in the vital missions they have been asked to undertake for the country.

We welcome the President’s recent review of the Christmas attack and **we should continue to study this incident and the attack at Fort Hood so we can apply**

their lessons to making the country safer. Here are some of our preliminary observations:

- **Information sharing and Connecting the Dots.** The 9/11 Commission found that the biggest impediment to all-source analysis – to a greater likelihood of connecting the dots – is human or systemic resistance to sharing information whether collected outside the U.S. or inside the U.S. bearing on threats pertaining to international terrorists. We recommended providing incentives for sharing information within the Intelligence Community. We note with approval that, while other failures did occur, apparently the Christmas attack was not a repeat of the failures to share information that were evident on 9/11. That suggests to us that progress has been made and that agencies and analysts are sharing critical information. However, it is not clear whether the NSA intercepted conversations referenced in news reports were widely shared. The incident points out two additional challenges that need to be addressed:
 - **Rather than a failure to share information, the Intelligence Community is awash with data.** In an age when we are collecting more information than ever before, the real challenge is how do you understand, manage, and integrate vast amount of information. The DNI needs to develop ways of dealing with intelligence information overload. At the same time, we need to do a better job of pushing information to the right people within the Intelligence Community. We welcome President Obama's order to distribute intelligence reports more quickly and widely. We need better management of the data and to look to technology to help us better sort through massive amounts of information to ensure the right people are seeing it in time to make a difference. The technology we use must be state of the art, constantly upgraded to quickly put information together and it must be properly placed instantaneously so better analysis can occur.
 - **As President Obama said, there was a failure to connect the dots. With more rigorous analysis, we might have been able to connect disparate pieces of information that might have foretold of the Christmas plot.** The greatest single challenge that arises from this incident in our view is the urgent need to strengthen the analytic process. We are pleased the President asked the DNI to look at this issue. The DNI was charged by the Congress in the Intelligence Reform Act to ensure the highest analytical standards within the

Intelligence Community. The DNI is properly situated within that Community to assume a leadership role in applying more rigorous standards to analytical tradecraft. Congress should also support these entities by giving the DNI and the NCTC the resources they need and the ability to recruit and keep the best people.

- **Designating Someone in Charge.** Another lesson from the Christmas attack is that we need to do a better job of ensuring that someone within the Intelligence Community is designated as “in charge” of running down all leads associated with a particular threat stream. As John Brennan indicated, we did not follow up and prioritize the intelligence indicating that al Qaeda in the Arabian peninsula sought to strike the homeland because no one intelligence entity or team or task force was assigned responsibility for doing that follow up investigation. In our investigation of the 9/11 attacks, we frequently saw confusion about roles, responsibilities, and missions and we welcome redoubled efforts to assure that responsibility for investigating leads on potential threats are assigned, pursued, and acted upon immediately and aggressively.
- **We need to do a better job of judging sources of potential attacks properly.** As the President’s review has shown, we had a “strategic sense” that Al Qaeda in the Arabian Peninsula was becoming a threat, but “we didn’t know they had progressed to the point of actually launching individuals here.” This at once shows the need for improved collection and better analysis. We collect a tremendous amount of intelligence and we need the very best people not only sorting through it for tactical details, but in a strategic sense asking where the next attack will come from.
- **No Sanctuaries.** Finding that our attackers on 9/11 benefited from the time, space, and command structure afforded in Afghanistan, the 9/11 Commission placed great emphasis on identifying and prioritizing actual or potential terrorist sanctuaries. We recommended strategies employing all elements of national power to keep terrorists insecure and on the run. We’re fortunate that the attack on Christmas emanating from Yemen did not succeed and this episode reminds us of the need to identify other potential sanctuaries. As our colleague Bruce Hoffman observed: “Al Qaeda is aggressively seeking out, destabilizing and exploiting failed states and other areas of lawlessness . . . and over the past year has increased its activities in places such as Pakistan, Algeria, the Sahel, Somalia, and of course Yemen.”

The U.S. should take a fresh look at these areas and deepen our commitment to ensuring al Qaeda cannot exploit those territories.

The Effectiveness of the Director of National Intelligence

We would like to say a word on the state of intelligence reform and the effectiveness of the DNI. After five years of experience with the new intelligence system, we are frequently asked, is it working? Our NSPG has been conducting a review of the Intelligence Reform and Terrorism Prevention Act and the effectiveness of the DNI and has begun work intended to help answer this question.

We have more work to do but our preliminary answer is that the DNI has achieved a meaningful measure of success in its first years – that has made it worth the inevitable turmoil – but is a work in progress closer to the beginning of reform than the end.

Some of the successes in the last five years include progress on information-sharing, a joint-duty program, and despite the failures evident in the Christmas attack, the National Counter Terrorism Center. Since September 11, 2001, the NCTC and other government agencies have repeatedly connected the dots and shared information necessary to defeat terrorist attacks. Improvements have clearly been made although that sharing is not as prompt and seamless as it should be.

But the DNI and the NCTC need most of all is the unyielding support of the President and the Congress if those organizations are going to achieve their role in integrating the Intelligence Community.

We as a country gave the DNI a hard job and a gargantuan to do-list, including:

- Solving systemic and longstanding information-sharing issues among Intelligence Community entities, especially to break down the “wall” between foreign and “domestic” intelligence, and to create an architecture to enable such sharing;
- Serving as the President’s Principal Intelligence Advisor;
- Developing a national intelligence budget across all intelligence agencies;
- Overseeing billions of dollars of intelligence community acquisitions;
- Improving the quality of intelligence analysis, especially to guard against “group-think,” and to manage an intelligence process that is inclusive of a variety of view points;

- Facilitating a “culture change” within the Community by establishing a joint duty system, modeled on DoD’s Goldwater-Nichols, to enable personnel to rotate assignments within the intelligence community;
- Bringing a mission focus to the IC by creating a group of Mission Managers “responsible for all aspects of the intelligence process to those issues” and leading centers like National Counter Terrorism Center and National Counterproliferation Center.

The DNI was given substantial authorities to accomplish these missions. The DNI must be the person who drives inter-agency coordination and integration. We are concerned about the expanding growth and bureaucracy of the DNI and we urge vigorous reevaluation of all its functions to assure its leanness. The DNI’s authorities must be exercised with discretion and consideration of the priorities and sensitivities of other intelligence agencies.

However, to be sure, there are ambiguities in the law. These ambiguities can contribute to mission confusion and lack of clarity about lanes in the road. But the burden is on the President to be clear on who is in charge of the Intelligence Community and where final authority lies on budget and personnel matters. The President’s leadership is crucial and must be continuing or we run the risk of mission confusion and decrease the prospect of long and lasting reform that was recommended after September 11, 2001.

PRIVACY AND CIVIL LIBERTIES

The balance between security and liberty will always be a part of the struggle against terrorism. America must not sacrifice one for the other and must be in the business of protecting freedom and liberty as well as fighting terrorism. Following the 9/11 Commission recommendations, the Bush Administration created a Privacy and Civil Liberties Oversight Board to advise the executive branch and oversee government efforts to defend civil liberties. The board was staffed and became operational in 2006. In 2007, Congress restructured the Board as an independent agency outside the White House. Despite early accusations of undue delay and inadequate funding, the Board held numerous sessions with national security and homeland security advisers, the attorney general, and the FBI director, among others, on terrorist surveillance and other issues arising from intelligence collection.

However, the Board has been dormant since that time. With massive capacity to develop data on individuals, the Board has to be the champion of seeing that

collection capabilities do not intrude into privacy and civil liberties. We continue to believe that the Board provides critical functions and we urge President Obama to reconstitute it, quickly appoint its Members, and allow them full access to the information and the authority to perform to perform this essential function.

CONGRESSIONAL OVERSIGHT

The 9/11 Commission also placed great importance on rigorous congressional oversight. This recommendation helped precipitate the creation of a House Homeland Security Committee and a Senate Homeland Security and Governmental Affairs Committee. However, enduring fractured and overlapping committee jurisdictions on both sides of the hill have left Congressional oversight in a unsatisfactory state. DHS entities still report to dozens of separate committees hundreds of times per year, which constitutes a serious drain of time and resources for senior DHS officials. Further, the jurisdictional melee among the scores of Congressional committees has led to conflicting and contradictory tasks and mandates for DHS. Without taking serious action, we fear this unworkable system could make the country less safe.

The 9/11 Commission also called congressional oversight over intelligence dysfunctional. We made recommendations to strengthen the oversight committees which were not accepted by the Congress though some progress has been made. Today we want to emphasize the enormous importance we attach to rigorous oversight of the intelligence community. Congressional oversight can help ensure the intelligence community is operating effectively and help resolve disputes about conflicting roles and missions. We urge the Congress to take action to strengthen the oversight capabilities of the intelligence committees.